

|                               |                             |                     |  |
|-------------------------------|-----------------------------|---------------------|--|
| <b>Notice of Allowability</b> | <b>Application No.</b>      | <b>Applicant(s)</b> |  |
|                               | 09/712,768                  | ASAKURA ET AL.      |  |
|                               | <b>Examiner</b>             | <b>Art Unit</b>     |  |
|                               | Elizabeth Slobodyansky, PhD | 1652                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment 03 August 2004.
2. ☒ The allowed claim(s) is/are 22,23,31,33,38,40,42-44,46-49,57,61,63,73,76 and 81.
3. ☒ The drawings filed on 14 November 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
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### **DETAILED ACTION**

The amendment filed August 3, 2004 canceling claims 24-26, 28, 29, 34-37, 39, 45, 50, 60, 62, 64-72, 74, 75 and 77-80, amending claims 31, 33, 38, 40, 42-44, 46-49, 57, 61, 63, 73 and 76 and adding claim 81 has been entered.

Claims 1-23, 31, 33, 38, 40, 42-44, 46-49, 51-57, 61, 63, 73, 76 and 81 are pending. Claims 1-21 and 51-56 are withdrawn.

Claims 22, 23, 31, 33, 38, 40, 42-44, 46-49, 57, 61, 63, 73, 76 and 81 are under consideration.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

#### **IN THE CLAIMS:**

In claims 22 and 23,

change the status identifier from "(Previously amended)" to "(Previously presented)".

In claims 27, 30, 32, 41, 58 and 59,

change the status identifier from "(Previously cancelled)" to "(Canceled)".

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In claim 38, line 1,

insert –recombinant-- before “host”.

In claim 40,

line 1,

insert –recombinant-- before “host”;

lines 1-2,

replace “at least one” with –a--.

In claim 42,

line 1,

replace “A” with –The recombinant-- before “host”;

line 2,

replace “bacterium” with –bacterial cell--.

In claim 43,

line 1,

replace “A” with –The recombinant-- before “host”;

line 2,

replace “40, which” with –42, wherein the host cell--.

In claim 44, line 1,

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replace "A" with --The recombinant-- before "host".

In claim 46,

line 1,

insert --core subunit I (subunit COI) of-- after "producing";

line 3,

replace "a" with --the recombinant-- before "host";

line 5,

insert --subunit COI of-- after "recovering";

In claim 47, line 2,

replace "bacterium" with --bacterial cell--.

In claim 57,

line 7,

replace "polypeptide" with --subunit COI--;

line 8,

insert --(subunit COII)-- after "subunit II".

In claim 61,

lines 1-2,

delete “, wherein the complex comprises at least a core subunit I (COI)  
and a core subunit II (COII)”;

line 3,

insert --subunits-- after “masses of”;

line 4,

insert –comprising said subunits-- after “complex”.

In claims 76 and 81, line 1,

insert –recombinant-- before “host”.

Cancel claims 1-21 and 51-56.

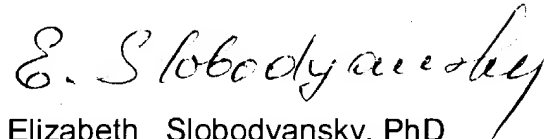
Authorization for this examiner's amendment was given in a telephone interview  
with Gonzalo Merino on October 18, 2004.

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Elizabeth Slobodyansky, PhD whose telephone number  
is 571-272-0941. The examiner can normally be reached on M-F 10:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Ponnathapura Achutamurthy, PhD can be reached on 571-272-0928. The  
fax phone number for the organization where this application or proceeding is assigned  
is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Elizabeth Slobodyansky, PhD  
Primary Examiner  
Art Unit 1652

October 18, 2004